IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDEABAD

PRESENT:

THE HONB'LE SRI JSUTICE J. CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE P. SWAROOP REDDY

W.P.No. 22731 of 2004
Dated: -04-2007

–

–
Between:
R. Radhakrishna Reddy

…Petitioner

and

The Government of Andhra Pradesh,
Represented by its Principal Secretary,
Education (CE.I) Department,
Secretariat buildings, Hyderabad
And another

..Respondents

JC & PSR, JJ.

W.P.No. 22731 of 2004

O r d e r:

(Per P.Swaroop Reddy, J.)

This writ petition is filed against the orders of the learned Andhra Pradesh Administrative Tribunal, Hyderabad in O.A.No. 1853 of 1999 with M.A.No. 1761 of 1999.

2. The relevant facts, in brief, are as follows: The petitioner was working as Chief Chemist in the Department of Archeology and

Museums, Andhra Pradesh, Hyderabad. The post of Chief Chemist was created in the year 1975 in the pay scale of Rs.700 – 1100 which was equivalent to other second level officers in the department. In all the Pay Revisions, the Pay Scale of the Chief Chemist was fixed on par with other second level officers in the department. The pay scale given to the seven, second level officers in the department was equivalent to the post of the Deputy Director. While things stood thus, G.O.Ms.No.29 daed:20.1.1986 was issued down grading the pay scale of the Chief Chemist from Rs.1250 – 1800 to Rs.1050- 1600 i.e., from the level of Deputy Director to that of Assistant Director. Subsequently, the Government issued G.O.Ms.No.21 (CE.I) Department dated: 29.1.1993 retaining the old pay scale of Rs.2410-4050 in the revised pay scales of 1986, thereby retaining the status of the post of the Chief Chemist at the level of the Deputy Director. In the year 1999, G.O.Ms.No.10 dated:4.1.1999 was issued framing Special Rules modifying the nomenclature of all the secondary level officers, where the nomenclature of the Chief Chemist was modified as Assistant Director (Archeological Chemistry); whereas all other six posts of second level officers was designated as Deputy Directors. A post of the Joint Director was also created to which the promotion will be from the category of Deputy Director. Aggrieved by the said down gradation of the post of the Chief Chemist to that of the Assistant Director, the present petitioner filed a representation dated:10-2-1999 to the Government without any positive result. As such he filed the O.A.

3. The learned Tribunal vide orders dated:5.7.2004 allowed the O.A., directing that the present petitioner's pay should be fixed in the post of the second level gazetted officer, as a Deputy Director

and notional benefits should be given prior to the date of filing and monetary benefits should be given subsequent to filing of the application.

4. Aggrieved by the said order of the learned Tribunal to the extent of "*monetary benefits should be given subsequent to the filing of the petition"* the present writ petition is filed contending that even prior to filing of O.A.No. 1853 of 1999, he was enjoying the pay scale of the Deputy Director by virtue of G.O.Ms.No.21 dated: 29.1.1993 and G.O.M.No. 12 dated:17.1.1997 read with the recommendations of the Pay Revision Commissioner. The learned Tribunal has accepted the factum of the petitioner being continued as Chief Chemist, which was equivalent to the post of the Deputy Director, has observed that the pay should be fixed in the second level gazetted officer post i.e., the Deputy Director and notional benefits should be give prior to the date of filing but erroneously held that monetary benefits shall be given subsequent to the filing of the petition.

5. Now, the point for consideration is whether there are any grounds to allow the writ petition.

6. Here it is pertinent to refer to the observations of the Administrative Tribunal made in the impugned order, in which it is observed that:

> "*On a careful consideration of the various GOS mentioned in the petition and also the sand taken in the counter, the applicant seems to have been promoted on27.9.1987. One Man commission was appointed only in the year 1998 and G.O.Ms.No.10 was issued on 4.1.999. Rightly or wrongly, by the time One Man Commission was appointed, the applicant was working as Chief Chemist. At that point of time, the post of Chief Chemist was equivalent to that of the*

Deputy Director. That being the case, the vested right is there in favour of the applicant, which cannot be deprived to him. By G.O.Ms.No.10 dated:4.1.1999, a policy decision was taken that while considering future promotees, the post of Chief Chemists to be treated as Assistant Directors. So in that view of the matter, though it cannot be held that G.O.Ms.No.10 dated:4.1.1999 is bad in law, still a vested right in the applicant cannot be deprived to him, as per the report of the One Man Commission, In this view of the matter, the post of Chief Chemist held by the applicant should be considered as equivalent to that of Deputy Director, but, this Direction is confined only to the applicant and not to his successors."

7. Thus, the learned Tribunal found that the post of Chief Chemist held by the petitioner should be considered as equivalent to the post of the Deputy Director and that benefits shall be only to the extent of the petitioner, his successors shall not be entitled for the same. In view of the observations of the learned Tribunal and in view of the undisputed fact of the petitioner drawing the salary in the scale of the Deputy Director prior to the orders in the O.A., and as recoveries are proposed on the basis of the observations of the learned Tribunal in the above O.A., we are of the opinion that the writ petition deserves to the be allowed.

8. In the result, the writ petition is allowed as prayed for. No costs.

_____

J. CHELAMESWAR, J.

-04-2007

***BVS**

_____

P. SWAROOP REDDY, J.